

CIVIL CASE NO. 1:11cv338

Defendant.

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ORDER OF REMAND

Sentence Four of 42 U.S.C. §405(g) provides, in pertinent part, that "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the

¹Defendant represents that while the Plaintiff consents to the present motion, Plaintiff does not consent to reopening the determination made regarding his subsequent disability application. Plaintiff's subsequent claim, however, is not currently before the Court, and any reopening of that claim is governed by the Commissioner's regulations. See 20 C.F.R. §§ 404.987-404.989. As such, Plaintiff's objection has no bearing on the determination of the present motion.

Commissioner of Social Security, with or without remanding the cause for a rehearing." The Defendant here has moved for reversal of his decision and for remand of this case for further administrative proceedings.

The Court finds that remand is appropriate. See Melkonyan v. Sullivan, 501 U.S. 89, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991). Upon remand to the Commissioner, the Appeals Council shall remand this case to the administrative law judge (ALJ) for further development of the record. Specifically, the Appeals Council will instruct the ALJ: (1) to consider the evidence associated with the subsequent claim to determine whether there is new and material evidence that would affect the ALJ's decision on the instant claim and (2) issue a new decision.

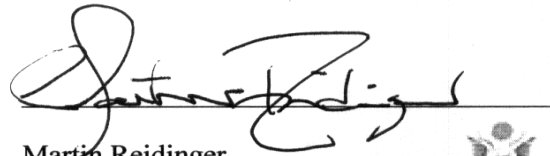
IT IS, THEREFORE, ORDERED that the Defendant's Motion for Reversal and Remand Pursuant to Sentence Four of 42 U.S.C. § 405(g) [Doc. 8] is **GRANTED**.

IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is hereby **REVERSED** and this case is hereby **REMANDED** for further administrative proceedings, consistent with this Order.

The Clerk of Court shall enter a separate Judgment of Remand simultaneously herewith. The Clerk of Court is notified that this is a final judgment closing the case.

IT IS SO ORDERED.

Signed: April 24, 2012


Martin Reidinger
United States District Judge

